

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2-95

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Subj: U.S. COAST GUARD'S ABS BASED ALTERNATE COMPLIANCE PROGRAM

1. PURPOSE. This Circular introduces a voluntary program available through the American Bureau of Shipping (ABS) for owners, operators, designers and builders of U.S. flag vessels to demonstrate compliance with U.S. Coast Guard design and inspection regulations. Called the U.S. Coast Guard's ABS Based Alternate Compliance Program (CG/ABS/ACP), it is intended to reduce the regulatory burden on the maritime industry while maintaining existing levels of safety, and provide the maritime industry with more flexibility in determining how to build and operate U.S. flag vessels. As this is a voluntary program, vessel owners operators, and builders can continue to engage the Coast Guard to conduct plan review or inspect their vessels in accordance with applicable provisions of the Code of Federal Regulations (CFR), and existing Coast Guard publications and directives.
2. DIRECTIVES AFFECTED. None.
3. AUTHORITY. Title 46 U.S.C. 3316 authorizes the Coast Guard to accept plan reviews, inspections and examinations performed by the ABS, or a similar U.S. classification society, for compliance with Coast Guard rules and regulations for classed and unclassified vessels. As provided by separate cites in each Part of Titles 33 and 46 CFR, the Commandant has the authority to grant equivalencies to Coast Guard rules and regulations. On January 12, 1995, the Coast Guard and the ABS executed a Memorandum of Understanding (MOU) which, among other things, delegated authority to the ABS to inspect appropriate vessels utilizing the CG/ABS/ACP. Implementation of the CG/ABS/ACP pilot program was announced in the Federal Register, February 3, 1995 (60 FR 6687).
4. APPLICABILITY. Owners or operators of ABS classed, U.S. flag tank ships and cargo ships which have a valid Coast Guard Certificate of Inspection (COI) and valid international certificates may enroll in a pilot program designed to test and evaluate the standards and procedures described in this Circular. Broader application of this program will be accomplished through rule making. However, owners, operators or builders of vessels other than those described above may use the standards and procedures described in this Circular should the Coast Guard expand the scope of the pilot program. The Coast Guard will announce any expansion of the pilot program by publishing a notice in the Federal Register.
- 5. BACKGROUND.
 - a. On January 28, 1992, the President issued a memorandum entitled "Reducing the Burden of Government Regulation" calling for a review of existing and proposed federal regulations for their effect on economic recovery and competitiveness. On February 7, 1992, the Secretary of Transportation issued a request for public comment on how DOT regulations impact industry in this regard. In response to the Secretary's request, the U.S. maritime industry submitted many comments. These comments noted the continuing pressure on the competitive position of the

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U.S. oceangoing merchant fleet and the commercial shipbuilding industry. Members of the industry called for greater alignment of Coast Guard regulations with international standards to reduce cost disadvantages incurred by the U.S. maritime industry and improve the competitiveness of the U.S. industry. These developments together with human factors concerns and the need for increased port state control activities prompted the Coast Guard to review its approach to ensuring maritime safety.

- b. As part of the review of its regulatory approach, the Coast Guard created a joint USCG/ABS task force in 1992 to conduct a comparison of the requirements in the CFR, ABS Rules, the 1974 Safety of Life at Sea Convention as amended (SOLAS 74/78) and the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). The purpose of this task force was to identify redundancies and determine if these other standards could achieve an equivalent level of safety. Over 370 separate regulatory topics have been examined to date. The task force determined that many of the CFR requirements examined could be satisfied by compliance with ABS Rules, SOLAS 74/78, and MARPOL 73/78. A U.S. Supplement to ABS Rules for Classification of Steel Vessels (U.S. Supplement) was developed to address those areas where current Coast Guard requirements are not embodied in either ABS Rules or international conventions or, in the case of international conventions, where details were left for interpretation by a flag administration.
 - c. The Coast Guard has concluded that the design requirements and survey provisions of ABS Rules and applicable international codes and convention regulations, in conjunction with the U.S. Supplement, provide an equivalent level of safety to corresponding federal regulations which govern the inspection of U.S. vessels. The CG/ABS/ACP allows those U.S. flag, ABS classed vessels, which are designed, equipped, maintained and surveyed in accordance with applicable ABS Rules, international codes and convention regulations, and the U.S. Supplement to satisfy certain periodic Coast Guard test and inspection requirements. The CG/ABS/ACP allows the Coast Guard to shift emphasis from providing a quality control service to the maritime industry to evaluating the human factors elements in maritime operations which statistics indicate account for more than eighty percent of all marine casualties. Additionally, the CG/ABS/ACP allows the Coast Guard to shift its resources to port state enforcement without diminishing the level of safety on U.S. vessels. Finally, the CG/ABS/ACP will lessen regulatory burdens on the U.S. maritime industry and reduce the duplication of effort between the Coast Guard and the ABS.
6. IMPLEMENTATION. The program described in this Circular is being implemented systematically to allow for adequate testing and evaluation. Under the terms of the CG/ABS/ACP the Coast Guard will accept surveys performed by the ABS as equivalent to tests and examinations required for initial and in-service inspections for certification, periodic re-examination, and drydock examinations. Vessel owners and operators may cite the successful completion of these activities by the ABS as satisfactory evidence of compliance with applicable laws and regulations. This Circular may be revised in the future to make improvements based upon lessons learned during the test and evaluation period.
- a. Plan Review. The Coast Guard will accept ABS plan review for compliance with the applicable U.S. and international codes and convention regulations for all U.S. flagged vessels designed to the applicable ABS class standards, including vessels being reflagged. The ABS will review plans on behalf of the Coast Guard for compliance with

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the applicable international codes and convention regulations, ABS Rules, and U.S. Supplement. Procedures for submission of plans are described in enclosure (1).

- (1) Equivalent Standards Where, of necessity, the regulations include detailed minimum design requirements, often citing specific standards, the regulations also provide for the acceptance of equivalent designs, components, and materials. When reviewing plans to the applicable international codes and convention regulations, ABS Rules, and U.S. Supplement, the ABS is authorized to evaluate and approve, on behalf of the Coast Guard, the application of an equivalent "component" level or "system" level standard. Equivalency evaluations which involve truly unique or novel features or the substitution of one type system for another, will be reviewed by the ABS and forwarded, with ABS' comments and recommendations to the Coast Guard for final approval.
 - (2) Reflaggings. Navigation and Vessel Inspection Circular (NVIC) 10-81, Change-1, provides guidance to owners, builders, and designers of vessels being reflagged. The Coast Guard will accept ABS plan review for all vessels being reflagged. However, if a vessel being reflagged under NVIC 10-81, Change-1 and reclassified by the ABS was designed and built to the rules of a classification society meeting the requirements in Appendix 1 to the International Maritime Organization (IMO) Resolution A.739 (18), the ABS may determine the extent of hull and machinery plan review. A vessel being reflagged and reclassified by the ABS which was designed and built to the rules of a classification society not meeting the requirements in Appendix 1 to IMO Resolution A.739(18) may be required to undergo full plan review.
- b. New Construction/Conversion Inspections. Owners or operators of vessels designed to the applicable ABS class standards may elect to have their vessels surveyed by the ABS for compliance with the applicable international codes and convention regulations, ABS Rules and U.S. Supplement in accordance with the procedures outlined in enclosure (2).
- c. In-Service inspections And Examinations Owners and operators of vessels which meet the established enrollment criteria may participate in a cooperative in-service inspection program. Program details, including responsibilities of participating owners/operators, the ABS, and the Coast Guard are contained in enclosure (2). In brief, under the CG/ABS/ACP, ABS surveys performed as a requirement for classification, to verify compliance with international codes and convention regulations, and to verify compliance with the requirements of the U.S. Supplement will satisfy the majority of Coast Guard test and inspection requirements for certification.
- (1) Inspection for Certification. The Coast Guard issues all COIs. Applications for inspections for certification must be made to the Coast Guard. The scope of the Coast Guard inspection will be similar to the examinations conducted by the Coast Guard on comparable foreign flag vessels. In brief, the cognizant Officer-in-Charge, Marine Inspection (OCMI) will review the ABS' reports and records of the various tests and examinations required as a condition of classification, or compliance with international codes and convention regulations and the U.S. Supplement. Coast Guard marine safety personnel will then board the vessel and hold drills to evaluate the proficiency of the vessel's crew in dealing with likely shipboard emergency situations. During the course of the drills, Coast Guard personnel will observe the vessel's various systems in operation, and evaluate

their materiel condition based upon these observations. Coast Guard personnel will also examine crew licenses and documents, vessel manuals, and maintenance records.

- (2) Periodic Re-examinations. Vessels enrolled in the CG/ABS/ACP will be subject to annual Coast Guard boardings of a scope comparable to annual foreign flag vessel exams. This will ensure consistent treatment between U.S. and foreign flag vessels. Periodic re-examinations will typically be conducted during a two month window on either side of the vessel's COI anniversary. Vessels which operate in foreign locations not easily accessible to Coast Guard marine safety personnel, and are not required by law to undergo an annual examination, may defer the annual Coast Guard boarding to a mutually convenient time, provided that the vessel's owner attests to the cognizant OCMI that the vessel is in compliance with all applicable laws and regulations, and the ABS verifies that the vessel is in compliance with those items which have been delegated to it under the CG/ABS/ACP.
- (3) Drydock Examinations and Internal Structural Exams (ISE). Drydock examinations and ISEs shall be conducted at the intervals prescribed in applicable requirements. Owners and operators of participating vessels must schedule drydock examinations and ISEs with the ABS. Coast Guard involvement in drydock examinations and ISEs will be determined on a case by case basis. Factors taken into account by the Coast Guard include vessel type, age, route, service, deficiency record, pollution and casualty history, extent of work to be performed, Coast Guard training needs, and program oversight requirements. Requests for underwater examinations in lieu of drydocking must be submitted to the ABS, which will forward it to Coast Guard Commandant (G-MVI) with a recommended action. The Commandant retains the authority to approve or deny such requests. Upon approval by the Coast Guard, the ABS may perform the underwater examination in accordance with its own provisions.
- (4) Damage Surveys and Marine Casualties. Nothing in this program shall be interpreted as limiting or restricting the authority of the Coast Guard's Captains of the Port to exercise the control over vessels as provided in existing laws and regulations. The Coast Guard will conduct marine casualty investigations as provided by federal law. Notwithstanding requirements imposed by the ABS to report damages to classed vessels, owners, agents, masters or persons in charge of a participating vessel which is involved in a reportable marine casualty shall report same to the Coast Guard as required by 46 CFR 4.05-1. Following any marine casualty, participating vessel owners may have the ABS assess the materiel condition of the affected vessel and recommend specific temporary and permanent repairs. Generally, OCMI's will accept the ABS' repair recommendations in non-reportable marine casualties. In cases involving reportable marine casualties, the OCMI in whose zone the casualty occurred may take into account the ABS' repair recommendations. However, the OCMI retains ultimate authority to review and approve temporary repair proposals in cases where damage to the vessel involves or is likely to result in a pollution incident, or poses a hazard to the safety of a U.S. navigable waterway. Generally, OCMI's will accept the ABS' recommendations for permanent repairs when the vessel no longer poses an immediate pollution or navigation safety threat.

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- (5) Inspection Activities Retained by the Coast Guard. The Coast Guard retains authority for the following marine inspection activities:

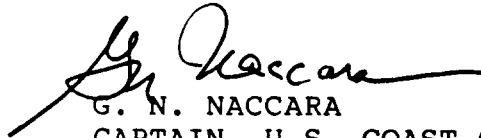
- (a) All manning issues;
- (b) Drydock extensions;
- (c) Permits to Proceed;
- (d) Load Line exemptions;
- (e) Excursion permits;
- (f) Changes of employment; and
- (g) Critical Area Inspection Plan (CAIP) enrollment and exams.

Owners or operators of participating vessels must apply directly to the cognizant OCMI for items (a) and (b) above. Owners or operators of participating vessels must apply directly to the local OCMI (i.e., the OCMI in whose zone the proposed activity will occur or originate) regarding items (c) through (f). CAIP issues, item (g), shall be handled as outlined in appropriate NVICs. The local OCMI will conduct the appropriate inspection or evaluation and issue Coast Guard certificates, amendments, letters, or permits, as necessary.

7. Issuance of Documents and Certificates The Coast Guard will issue the vessel's Certificate of Inspection, Certificate of Documentation, Certificate of Financial Responsibility and Stability Letter. The ABS will issue the international convention certificates identified in paragraph 2.d. of enclosure (2) of this Circular to the vessels participating in this program. As provided by 46 CFR 170.120(b), if the ABS includes pertinent information from the vessel's Trim and Stability Manuals on the Load Line Certificate, the vessel need not have a Coast Guard issued Stability Letter.
8. Denial Or Revocation Of A COI. The Coast Guard retains the authority to deny or revoke certification of a participating vessel based upon such factors as: the vessel's involvement in a marine casualty or pollution incident; failure to correct ABS Outstanding Requirements for Class (OSRs), statutory deficiencies or Coast Guard marine inspection deficiencies; unreasonable delays in complying with OSRs or in correcting statutory deficiencies or Coast Guard marine inspection deficiencies; or, expiration or invalidation of required documents.
9. Civil Penalties. Compliance with OSRs and correction of statutory deficiencies issued to participating vessels by the ABS is required as a condition of program participation. Failure to comply with duly issued ABS requirements may result in the vessel being disenrolled from the CG/ABS/ACP and subjected to all applicable Coast Guard requirements. Responsible parties who fail to comply with applicable Coast Guard marine inspection requirements may then be subject to civil penalty action as provided in existing regulations.
10. Appeals. Appeals will be handled as specified in enclosure (3).
11. Oversight. The Coast Guard's oversight program is designed to ensure that vessels participating in the CG/ABS/ACP maintain a level of safety equivalent to non-participating certificated vessels. Oversight activities have been designed to identify and correct programmatic discrepancies while minimizing duplication of effort and avoiding interruption of vessel schedules. Program oversight will consist of a cumulative evaluation of activities delegated to the ABS through record review and administrative audits, and activity monitoring conducted during new construction and in-service vessel inspections for certification.

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12. Request To Participate. Interested owners or operators are referred to enclosure (4) for specific instructions on enrollment procedures. Participation in this program does not relieve vessel owners or operators of their statutory responsibility to maintain their vessels in compliance with applicable requirements. This program does not in any way limit the Coast Guard's authority to verify that vessels of the United States are designed, built, equipped, maintained and operated in accordance with all applicable domestic and international requirements.
13. ACTION. Vessel designers, builders, owners, operators, or their representatives, are encouraged to take advantage of the procedures and guidelines detailed in this Circular. District Commanders, Commanding Officers of Marine Safety Offices and the Commanding Officer, Marine Safety Center are encouraged to bring this NVIC to the attention of appropriate individuals in the marine industry.



G. N. NACCARA
CAPTAIN, U.S. COAST GUARD
ACTING CHIEF, OFFICE OF MARINE SAFETY,
SECURITY AND ENVIRONMENTAL PROTECTION

- End: (1) Procedures for Plan Submittal and Approval
(2) Detailed Procedures for Inspections and Examinations
(3) Appeals, Interpretations and Equivalencies and Exemptions from Requirements of International Conventions
(4) Enrollment Procedures and Conditions for Participating
(5) USCG/ABS Memorandum of Understanding dated January 12, 1995

DETAILED PROCEDURES FOR PLAN SUBMITTAL AND APPROVAL
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1. GENERAL.

- a. As authorized by 46 U.S.C. 3316, the Coast Guard will accept ABS plan review for compliance with the applicable ABS Rules, international codes and conventions, and the U.S. Supplement for participating vessels. The ABS may perform plan review on behalf of the Coast Guard for all aspects of design, construction, conversion (major and minor), reflagging, and repairs.
- b. The Coast Guard will retain plan review authority for any area it identifies as being of particular concern.
- c. In cases where the Coast Guard does not have regulations or policies developed for a particular application, such as for novel or especially complex vessel designs or operations, the Marine Safety Center (MSC) may choose to do preliminary concept review to determine what standards would apply. After concept review, the applicability of this circular will be discussed between the ABS and the MSC.

2. PLAN SUBMITTAL AND REVIEW PROCEDURES.

- a. The submitter must forward to ABS Americas a list of those plans intended to be submitted. The ABS will review the plan list and respond to the submitter with a request for any additional plans that may be required. Plans should be prepared and submitted in accordance with the instructions in the appropriate ABS rules or guides.
- b. Plan review conducted by the ABS on behalf of the Coast Guard will be done by ABS employees certified as qualified in accordance with their quality system to perform the specific plan review function.
- c. Plans reviewed under this procedure will each be stamped to indicate ABS action on behalf of the Coast Guard. Plans will be stamped to identify action taken by the ABS (e.g., "APPROVED, N "EXAMINED," "RESUBMISSION REQUIRED," etc.). Either an ABS plan stamp or correspondence which accompanies the plans will clearly indicate that the plans have been reviewed to all of the standards which apply to the CG/ABS/ACP. The plans may also be stamped to indicate ABS classification action.
- d. When plan review is completed, the results of the review will be noted in the letters or on the plans. This procedure applies to all plans reviewed by the ABS on behalf of the Coast Guard, not only those marked "Approved." ABS Americas will forward one copy of the review letters and plans to the cognizant ABS field office.

3. REFLAGGING. Owners of vessels being reflagged may use the plan submittal procedures in paragraph 2 of this enclosure if the vessel is being enrolled in the CG/ABS/ACP.

4. OVERSIGHT. The MSC may request certain plans for oversight review. Plan review oversight will focus on plans detailing systems which are novel or incorporate special features. Additionally, systems involving extensive equivalency determinations will also be subject to plan review oversight by the Coast Guard.

DETAILED PROCEDURES FOR INSPECTIONS AND EXAMINATIONS

1. DUTIES AND RESPONSIBILITIES OF VESSEL OWNERS AND OPERATORS.

- a. General. Vessel owners and operators may cite the successful completion of certain activities performed by ABS under the terms of the alternate compliance program as satisfactory evidence of compliance with applicable laws and regulations. Notwithstanding the role of the ABS in this program, vessel owners and operators bear the ultimate responsibility for ensuring their vessels are in compliance with applicable U.S. laws and regulations and international codes and conventions.
- b. Enrolling in the U.S. Coast Guard's ABS Based Alternate Compliance Program (CG/ABS/ACP). Vessel owners or operators who want to participate in this program must make application to the ABS as prescribed in enclosure (4).
- c. Scheduling Coast Guard Inspections. Vessel owners or operators must apply to the cognizant OCMI not less than 30 days prior to the expiration of the vessel's current COI to schedule a renewal inspection, or provide a minimum 30 days notice when requesting an initial inspection for certification. The application must indicate that the vessel is enrolled in the CG/ABS/ACP, and provide the date it has been accepted for enrollment by the ABS.
- d. Scheduling ABS Surveys. Vessel owners or operators must contact the ABS to schedule the surveys required as a condition of classification, surveys to maintain compliance with the U.S. Supplement to ABS Rules for Steel Vessels, or surveys for the issuance of international maritime safety or pollution prevention convention certificates. Owners or operators may, but are not required to, schedule an ABS survey to coincide with a USCG inspection for certification or reexamination.
- e. Notice of Marine Casualties. Owners, agents, masters, operators or persons in charge of a vessel involved in a marine casualty shall report same to the Coast Guard as required by Title 46 CFR Section 4.05-1.
- f. Special Purpose Inspections Owners or operators of vessels which desire drydock interval extensions, Permits to Proceed, Load Line exemptions, Excursion permits, or Changes of Employment, or CAIP examinations must contact the local OCMI.
- g. Access to Reports and Records. Vessel owners and operators must permit the Coast Guard unrestricted access to review any and all records, files, reports, documents, certificates and similar material held or issued by the ABS which the Coast Guard deems necessary to monitor the condition of the vessel during its participation in this program.
- h. International Convention Certificates. Owners and operators must accept the ABS as the issuing authority for their vessels' international convention certificates. Contact the ABS to apply for equivalencies and extensions to international convention certificates.
- i. Notification to Vessel's Crew. Vessel owners and operators must advise crew members when the vessel to which they are assigned is participating in the alternate compliance program.

2 DUTIES AND RESPONSIBILITIES OF THE ABS

- a. General. Under this program, the ABS conducts surveys, tests, inspections and examinations (hereinafter "activities") to assess a vessel's compliance with the ABS Rules for Building and Classing Steel Vessels, the regulations established in various international maritime safety and pollution prevention treaties, and the U.S. Supplement.
- b. Program Administration. The ABS has developed procedures for enrolling vessels into this program. The ABS will notify the Coast Guard as soon as it has enrolled a vessel. The ABS will also notify the Coast Guard as soon as a vessel becomes disenrolled from this program. The ABS will provide affected parties with information pertaining to its specific duties, responsibilities and fees upon request. The ABS will provide the Coast Guard access to any and all records, files, reports, documents, certificates and similar material which it holds or issues incident to performing CG/ABS/ACP activities and which the Coast Guard deems necessary to monitor the condition of vessels participating in this program and to fulfill the United States' international convention reporting obligations.
- c. ABS Surveys. The ABS will respond to requests for classification surveys, surveys for compliance with the U.S. Supplement, and surveys for the issuance of international maritime safety and pollution prevention certificates in accordance with the policies and procedures it has established to carry out this program. When so requested by a participating owner or operator, the ABS may perform surveys to coincide with USCG inspections or re-examinations.
- d. International Certificates. The ABS is authorized to issue, endorse, extend, deny or revoke the following international certificates, in accordance with the provisions of each convention, to vessels participating in this program: Cargo Ship Safety Equipment Certificate; Record of Equipment for the Cargo Ship Safety Equipment Certificate; Cargo Ship Safety Construction Certificate; International Load Line Convention Certificate; and International Oil Pollution Prevention Certificate. The ABS is authorized to issue short term or interim international certificates when participating vessels receive statutory deficiencies following statutory surveys. The ABS is authorized to grant extensions to international convention certificates. The ABS is authorized to accept equivalencies to international codes and convention regulations as prescribed in enclosure (3).
- e. Notification Requirements. The ABS will notify the local OCMI when a survey involves drydocking (including Underwater Examination in Lieu of Drydocking) or internal structural examination. The ABS will provide the local OCMI with the completion dates of drydockings and internal structural exams. The ABS will notify the local OCMI whenever any survey reveals evidence of an apparent violation of any applicable law or regulation on the part of a participating vessel's owners, operators, or licensed or documented personnel, or evidence of previously unreported vessel damages. (For example, presence of oily residue in a segregated ballast tank may be evidence of an apparent violation of pollution prevention regulations.) The ABS will notify the cognizant OCMI whenever it denies, revokes or extends a classification certificate or denies, revokes or extends an international convention certificate to a participating vessel. The ABS will notify the Coast Guard as prescribed in enclosure (3) in matter pertaining to equivalencies to international codes and conventions.

- f. Liaison with the Coast Guard. The ABS will establish and maintain liaison with the Coast Guard in accordance with the terms and conditions specified in its Memorandum of Understanding Concerning Delegation of Vessel Inspections and Examinations, and Tonnage Measurement, and Acceptance of Plan Reviews and Approvals. Among other things, this liaison will promote effective communication at all appropriate levels of the respective organizations, and facilitate sharing written and computer information relevant to the vessels participating in this program.
- g. Confidentiality. Except as otherwise required by law, ABS personnel will not divulge the identity of persons who report deficiencies on participating vessels without that person's express permission.

3. DUTIES AND RESPONSIBILITIES OF THE COAST GUARD.

- a. General. The Coast Guard will maintain its authority and responsibility to verify that vessels of the United States are designed, built, equipped, maintained and operated in accordance with all applicable international and domestic requirements. The CG/ABS/ACP is one method by which the Coast Guard satisfies this responsibility. The Coast Guard has determined that certain activities performed by the ABS are acceptable for establishing a vessel's compliance with applicable U.S. laws and regulations and international codes and conventions. The Coast Guard will conduct such administrative reviews and periodic boardings of participating vessels as may be required to satisfy its statutory responsibilities.
- b. Certificates of Inspection. The Coast Guard will issue all COIs. A COI will be issued to a vessel when the cognizant OCMI is in receipt of a properly completed and timely submitted application for inspection, and is satisfied that the vessel is in substantial compliance with applicable U.S. laws and regulations and is fit for its intended route and service. The OCMI may rely on ABS reports and other information to make that determination. The COI will indicate that the vessel has been inspected and certificated in accordance with the terms of the CG/ABS/ACP.
- c. CG/ABS/ACP Inspection Process.

Administrative Review:

The cognizant OCMI will conduct an administrative review of the various reports of activities which have been performed by the ABS incident to classification, U.S. Supplement compliance, and issuance of international convention certificates. The review will determine if vessel equipment, components or systems have been examined at the required interval in accordance with proper procedures. The review will also establish whether or not the equipment, components or systems were found in satisfactory condition. Requirements issued by the ABS (i.e., OSRs, statutory deficiencies) to correct items not found satisfactory may be accepted, with respect to the time allowed and method of correction, when they have been made in accordance with the terms and conditions of this program.

Where ABS reports are found inadequate, or the reports indicate that the vessel is not in substantial compliance, the matter will be referred to the ABS prior to the Coast Guard boarding. Upon a determination by the cognizant OCMI that the reports show the vessel to be in substantial compliance with applicable U.S. laws and regulations and international codes and conventions, the vessel will be boarded by Coast Guard marine safety personnel.

Boardings:

The purpose of the boarding will be to carry out those activities which the Coast Guard has not authorized the ABS to perform under the terms and conditions of this program. Those activities include drills to assess the crew's proficiency in handling likely shipboard emergencies such as fires, ship abandonment, failures of critical safety systems, and pollution incidents. During the course of the drills, the marine safety personnel will verify, by visual observation of the vessel's equipment, components and systems, that the conditions documented in the various ABS reports accurately reflect the actual condition of the vessel and that no unsafe conditions exist.

- d. Periodic Re-examinations. The Coast Guard will notify the ABS and participating owners or operators when their vessel is due for a periodic re-examination. At the time of the periodic re-examination, the cognizant OCMI will review the various reports of activities which have been performed by the ABS incident to classification, verification of U.S. Supplement compliance, and issuance of international convention certificates. The review will determine if vessel equipment, components or systems have been examined at the required interval in accordance with proper procedures. The review will also establish whether or not the equipment, components or systems were found in satisfactory condition.

The periodic re-examination will also include a boarding by Coast Guard marine safety personnel. When the cognizant OCMI's administrative review reveals the vessel to be in substantial compliance with applicable, U.S. laws and regulations, and international codes and conventions, the scope of the boarding will be comparable to a Coast Guard Port State Control Program boarding on a similar type of foreign flag vessel. In general this will involve a brief examination of the vessel's certificates, documents and maintenance records, followed by a "walk through" to observe the condition of the vessel's structure, engineering and safety equipment to verify that no unsafe conditions exist. Drills may also be conducted to the extent necessary to verify the crew's competence to effectively respond to likely shipboard emergencies.

- e. Drydock Examinations The Coast Guard may attend the drydockings, ISEs or underwater surveys conducted by the ABS under the terms and conditions of this program.
- f. Special Purpose Inspections The Coast Guard will process drydock interval extensions, Permits to proceed, Load Line exemptions, Excursion Permits, Changes of Employment and administer the Critical Area Inspection Plan program in accordance with existing policies and procedures.

- g. Marine Casualties and Damage Surveys The Coast Guard will investigate reportable marine casualties in accordance with current policies and procedures. The Coast Guard maintains authority to review and approve repair proposals in cases where damage to a vessel involves, or is likely to result in a pollution incident, or poses a hazard to the safety of a U.S. navigable waterway. Generally, the Coast Guard will accept the ABS' repair recommendations in non-reportable marine casualties and may take into account the ABS' temporary repair recommendations in reportable marine casualties. Generally, the Coast Guard will accept the ABS' recommendations for permanent repairs when the affected vessel no longer poses an immediate pollution or navigation safety threat.
- h. Liaison with the ABS. The Coast Guard will establish and maintain liaison with the ABS in accordance with the terms and conditions specified in its Memorandum of Understanding Concerning Delegation of Vessel Inspections and Examinations, and Tonnage Measurement, and Acceptance of Plan Review and Approval of January 12, 1995. Among other things, this liaison will promote effective communication at all appropriate levels of the respective organizations, and facilitate sharing written and computer information relevant to the vessels participating in this program.

**APPEALS, INTERPRETATIONS AND EQUIVALENCIES TO REQUIREMENTS OF
INTERNATIONAL CODES AND CONVENTIONS**

1. GENERAL. The process for appealing the decision of a classification society acting on behalf of the Coast Guard is established in 46 CFR 1.03-35. This enclosure provides vessel owners, operators and builders with alternative procedures for appealing decisions of the Coast Guard and the ABS associated with the various aspects of the CG/ABS/ACP. Using these alternative procedures will facilitate the appeals process. This enclosure specifies the procedures to obtain interpretations of the ABS Rules, the U.S. Supplement and international codes and conventions. It also provides the procedures to obtain an equivalency determination to ABS Rules, the U.S. Supplement and international codes and conventions.

APPEALS

2. APPEALING ABS DECISIONS PERTAINING TO ABS CLASSIFICATION RULES.

Plan Review: Persons aggrieved by an ABS decision pertaining to the application of a classification rule, where the classification rule is part of the CG/ABS/ACP requirements, should apply to the ABS. The ABS will specify the procedures to be followed. Aggrieved parties are encouraged to resolve the matter at the most immediate level practicable. Failing resolution at the most immediate level, an aggrieved party may appeal to the Vice President of Engineering at ABS Americas. The decision of ABS' Vice President of Engineering is final. ABS Americas will notify the Coast Guard of its decision. The ABS' decisions may be adopted as Coast Guard policy.

New Construction or conversion: Persons aggrieved by an ABS decision pertaining to the application of a classification rule, where the classification rule is part of the CG/ABS/ACP requirements, must apply to the ABS. The ABS will specify the procedures to be followed. Aggrieved parties are encouraged to resolve the matter at the most immediate level practicable. Failing resolution at the most immediate level (i.e., attending Surveyor, surveyor-in-charge), an aggrieved party may appeal to the Survey manager at ABS Americas. The decision of ABS' Survey manager is final. ABS Americas will notify the Coast Guard of its decision. The ABS' decisions may be adopted as Coast Guard policy.

3. APPEALING ABS DECISIONS PERTAINING TO THE U.S. SUPPLEMENT OR INTERNATIONAL CODES AND CONVENTIONS.

Plan Review. Owners or operator, of participating vessels who are aggrieved by an ABS decision on matters involving the U.S. Supplement or international codes and conventions must first appeal the matter to the ABS. The ABS will specify the procedures to be followed. Aggrieved parties are encouraged to resolve the matter at the most immediate level practicable. Failing resolution of the matter at the most immediate level, an aggrieved party may appeal to the Vice President of Engineering at ABS Americas. If resolution is achieved, ABS Americas will notify the Coast Guard of its decision.

Failing resolution with the ABS, an aggrieved party may appeal the matter to the Coast Guard in accordance with 46 CFR 1.03-35(a). Such appeals must be made in writing to Commandant (G-MTH), submitted via the Vice President of Engineering at ABS Americas with a copy to the Coast Guard ABS Liaison Officer. ABS Americas will forward the appeal, along with its

comments, to Commandant (G-MTH) within five working days of receipt. Commandant (G-MTH) should respond to the appeal within ten working days of receipt from the ABS. This may be an interim response in complex cases where final resolution requires extensive research or deliberation.

Decisions of Commandant (G-MTH) are final. The Coast Guard will notify ABS Americas of its decision. Decisions of the Commandant may be applied as Coast Guard policy.

Inspection and Examinations Owners or operators of participating vessels who are aggrieved by an ABS decision on matters involving the U.S. Supplement or international codes and conventions must first appeal the matter to the ABS. The ABS will specify the procedures to be followed. Aggrieved parties are encouraged to resolve the matter at the most immediate level practicable. Failing resolution at the most immediate level (i.e., the attending inspector, Surveyor-in-charge), an aggrieved party may appeal to the Survey Manager at ABS Americas. If resolution is achieved, ABS Americas will notify the Coast Guard of its decision.

Failing resolution with the ABS, an aggrieved party may appeal the matter to the Coast Guard. The appeal may be submitted in accordance with 46 CFR 1.03-35(b), or may be submitted to Commandant (G-MVI) via the Survey Manager at ABS Americas with a copy to the Coast Guard. ABS Americas will forward the appeal, along comments, to Commandant (G-MVI) within five receipt. Commandant (G-MVI) should respond within ten working days of receipt from the of Commandant (G-MVI) are final. The Coast ABS Americas of its decision. Decisions of may be applied as Coast Guard policy.

4. APPEALING COAST GUARD DECISIONS. Persons aggrieved by a decision of the Coast Guard may appeal in accordance with the procedures contained in 46 CFR 1.03. The Coast Guard will notify ABS Americas of its decisions. Decisions may be applied as Coast Guard policy.

INTERPRETATIONS

5. INTERPRETATIONS DEFINED. An interpretation is policy by a cognizant authority which establishes acceptable methods of compliance with applicable rules, regulations or standards for which there may be a variety of possible approaches to compliance. The ABS is the cognizant authority for interpretations pertaining to those classification rules which are part of the CG/ABS/ACP requirements. The Coast Guard is the cognizant authority for interpretations of the U.S. Supplement and international codes and conventions.

The specific procedures for requesting interpretations are outlined below:

ABS CLASSIFICATION RULES:

Plan Review: Apply to the ABS for interpretations of classification rules which are part of the CG/ABS/ACP requirements. The ABS will specify the procedures to be followed. The ABS shall make the interpretation, and so notify the applicant. Interpretations of the ABS are final. ABS Americas will notify the Coast Guard of its interpretation.

New Construction or conversion: Apply to the ABS for interpretations of classification rules which are part of the CG/ABS/ACP requirements. The ABS will specify the procedures to be followed. The ABS shall make the interpretation, and so notify the applicant. Interpretations of the ABS are final. ABS Americas will notify the Coast Guard of its interpretation.

ABS U.S. SUPPLEMENT:

Plan Review: Apply to the ABS for interpretations of items in the U.S. Supplement. The ABS will specify the procedures to be followed. The ABS will inform the MSC of its proposed interpretation. If the MSC accepts the interpretation, the ABS will so inform the applicant. If the ABS' interpretation is not accepted, the MSC will provide an interpretation to the ABS, which the ABS will then convey to the applicant. Interpretations of the Coast Guard are final.

Inspection and Examination: Apply to the ABS for interpretations of items in the U.S. Supplement. The ABS will specify the procedures to be followed. The ABS will inform Commandant (G-MVI) of its proposed interpretation. If the Commandant accepts the interpretation, the ABS will so inform the applicant. If the ABS' interpretation is not accepted, Commandant (G-MVI) will provide an interpretation to the ABS, which the ABS will then convey to the applicant. Interpretations of the Coast Guard are final.

INTERNATIONAL CODES AND CONVENTIONS:

Plan Review: Apply to the ABS for interpretations of requirements in an international code or convention. The ABS will specify the procedures to be followed. The ABS will inform the MSC of its proposed interpretation. If the MSC accepts the interpretation, the ABS will so inform the applicant. If the ABS' interpretation is not accepted, the MSC will provide an interpretation to the ABS, which the ABS will then convey to the applicant. Interpretations of the Coast Guard are final.

Inspection and Examination: Apply to the ABS for interpretations of items in an international code or convention. The ABS will specify the procedures to be followed. The ABS will inform Commandant (G-MVI) of its proposed interpretation. If the Commandant accepts the interpretation, the ABS will so inform the applicant. If the ABS' interpretation is not accepted, Commandant (G-MVI) will provide an interpretation to the ABS, which the ABS will then convey to the applicant. Interpretations of the Coast Guard are final.

EQUIVALENCIES

6. REQUESTING AN EQUIVALENCY TO AN ABS CLASSIFICATION RULE, A RULE IN THE ABS U.S. SUPPLEMENT OR A REGULATION IN AN INTERNATIONAL CODE OR CONVENTION.

Plan Review: Apply to the ABS to request an equivalency determination. The ABS will specify the procedures to be followed. The ABS is authorized to evaluate and approve, on behalf of the Coast Guard, the application of an equivalent "component" level or "system" level standard. ABS Americas will notify the Coast Guard of equivalency approvals.

Equivalency evaluations which involve truly unique or novel features or the substitution of one type of system for another, will be reviewed by the ABS and forwarded, with ABS' comments and recommendations, to the Coast Guard for final approval.

Inspection and Examination: Apply to the ABS to request an equivalency determination. The ABS will specify the procedures to be followed. The ABS will inform Commandant (G-MVI) of its proposed determination. If the Commandant accepts the determination, the ABS will so inform the applicant. If the ABS' determination is not accepted, Commandant (G-MVI) will provide the ABS with a determination, which the ABS will then convey to the applicant. Determinations of the Coast Guard are final.

ENROLLMENT PROCEDURES AND CONDITIONS FOR PARTICIPATING

1. WHERE TO APPLY. Owners, operators, or builders who wish to enroll a vessel in the CG/ABSIACP are invited to apply to:

ABS Americas/Survey Manager
16855 Northchase Dr.
Houston, TX 77060

Each vessel proposed for enrollment must be individually identified by the applicant.

2. WHEN TO APPLY. Applications for vessels under construction must be made at the time the building contract is signed, or as soon thereafter as practicable. Applications for existing certificated vessels may be made at any time.
3. OBTAINING INFORMATION. The Survey Manager is the ABS employee responsible for overseeing and managing the CG/ABS/ACP, and is the point of contact for questions concerning the ABS' duties, responsibilities, practices and procedures in carrying out the program. Contact the Survey Manager for additional application procedures.
4. CONDITIONS OF ENROLLMENT. Existing vessels must have valid international convention certificates and be classed by the ABS, or applicants must agree to class their vessels with the ABS.

Applicants must authorize the Coast Guard access to any and all records, files, reports, documents, certificates, etc., held or issued by the ABS incident to performing CG/ABS/ACP activities which the Coast Guard deems necessary to monitor the condition of the vessel during its participation in the alternate compliance program. This authorization will remain in effect as long as the vessel is enrolled in the CG/ABS/ACP.

Applicants must abide by the appeal procedures established in enclosure (3) to this NVIC. This authorization will remain in effect as long as the vessel is enrolled in the CG/ABS/ACP.

Applicants must agree to reimburse the Coast Guard for expenses incident to new construction inspections, inspections for certification, periodic re-examinations, drydock examinations, damage surveys, and oversight activities performed by Coast Guard personnel at foreign locations.

Owners or operators of vessels participating in the CG/ABS/ACP must advise crew members when the vessel to which they are assigned is participating in this program.

Owners or operators of vessels participating in the CG/ABS/ACP must accept the ABS as the issuing authority for their vessels' international convention certificates.

5. PERIOD OF ENROLLMENT. Vessels remain enrolled in the CG/ABS/ACP unless disenrollment is requested by the vessel's owner or operator, or the vessel is disenrolled for cause by the ABS. Vessel owners or operators may voluntarily disenroll a vessel from this program by making a written request to the ABS Americas/Survey Manager.

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES COAST GUARD
AND THE
AMERICAN BUREAU OF SHIPPING
CONCERNING DELEGATION OF
VESSEL INSPECTIONS AND EXAMINATIONS, AND
TONNAGE MEASUREMENT, AND
ACCEPTANCE OF PLAN REVIEW AND APPROVAL**

I. This Memorandum of Understanding (MOU) delegates authority and set. forth guidelines for cooperation between the United State. Coast Guard and the American Bureau of Shipping (ABS) with respect to the initial and subsequent inspections for certification and periodic reinspections or examinations of vessels of the United States, as defined by 46 U.S.C. § 2101(46), both in the United States and in foreign countries, in the review and approval of plans, the tonnage measurement of vessels, and in associated activities. Nothing in this MOU alters in any way the statutory or regulatory authority of the Coast Guard or the rules, services and responsibilities of the ABS related to vessel classification.

II. Parties.

A. The Coast Guard is statutorily authorized to administer laws and promulgate and enforce regulations for the promotion of the safety of life and property at sea and the protection of the marine environment. In accordance with the authority granted by 46 U.S.C. § 2104 and § 3316, the Coast Guard is authorized to delegate to the ABS the inspection and examination of vessels of the United States. The Coast Guard also has statutory authority under 46 U.S.C. Part J - Measurement of Vessels, for the measurement and the certification of tonnages for vessels required or eligible to be documented as vessels of the United States. Under 46 U.S.C. § 14103, the Coast Guard may delegate the authority to measure certain vessels to qualified persons. Further, under 46 U.S.C. § 3316, the Coast Guard is authorized to accept the review and approval of vessel plans performed by the ABS.

B. The ABS is a not for profit corporation chartered under the laws of the State of New York. The ABS is chartered for the purpose of promoting the security of life and property on the seas, and protection of the marine environment. The ABS is maintained as an organization having no capital stock and paying no dividends. The Secretary of Transportation appoints two active representatives, one of which is the Commandant of the Coast Guard, to represent the U.S. Government on the ABS Council or Board of Directors. Affected American interests and members of the Coast Guard serve on technical and special committees of the ABS and have a voice in the development of Rules for classification published by the ABS. A standing committee of personnel from the Coast Guard and the ABS periodically reviews the relationships between the organizations.

III. Delegation of Vessel Inspections and Tonnage Measurements and Acceptance of Plan Review. and Approvals

A. Delegation.

1. The Coast Guard delegates to the ABS, as its agent, the authority to conduct the initial inspection for certification, subsequent inspection for certification, periodic reinspection and examination, including drydock examinations, and the authority to issue and endorse certain certificates for vessels documented, or to be documented, as vessels of the United States, both in the United States and in foreign countries.

2. The ABS is a qualified person for the purposes of measuring vessels and issuing certificates in accordance with 46 U.S.C. Part J and is delegated the authority to conduct tonnage measurement services in accordance with federal regulations as part of the Coast Guard vessel certification process.

B. Acceptance of Plan Reviews and Approvals.

1. The Coast Guard will accept the review and approval of vessel plans by the ABS in the same manner as if approved by the Coast Guard.

C. Terms.

1. The Coast Guard and the ABS will meet periodically, at all levels, to promote cooperation and handle matters of interpretation and policy concerning the subjects of this agreement.

2. In carrying out this agreement, the ABS will,

(i) provide written confirmation, in a mutually agreed format and media, of the results of inspections, examinations, reviews and approvals conducted on behalf of the Coast Guard, and provide the Coast Guard access to information concerning deficiencies identified by the ABS, related to functions delegated under this MOU. Subject to agreement of the vessel's owner, the ABS will provide the Coast Guard access to information concerning deficiencies related to classification by the ABS which have not been fully corrected;

(ii) in accordance with 46 U.S.C. §§ 3310 and 3316(c)(2), maintain in the United States records of all inspections, examinations, measurements, review., and approval. done on behalf of the Coast Guard and make such records available to the Coast Guard upon request;

(iii) be subject to a mutually acceptable oversight program administered by the Coast Guard to determine that the functions delegated under this MOU are being carried out;

(iv) designate appropriate persons in the ABS to serve as points of contact with the appropriate Coast Guard personnel on matters of interpretation, policy, and the working relationship;

(v) submit proposed changes to the ABS Rules and the associated ABS quality system procedures and process instructions related to functions delegated under this MOU to the Coast Guard for review and comment to determine that these documents, read together with the U.S. Supplement to the ABS Rules, are consistent with U.S. law, regulation, and policy. Where the ABS adopts ABS Rule changes which are determined by the Coast Guard not to be consistent with Coast Guard regulation and policy, corrective provisions will be made in the U.S. Supplement to the ABS Rules;

(vi) submit for approval by the Coast Guard proposed changes to the U.S. Supplement to the ABS Rules; and

(vii) make available to the Coast Guard copies of the ABS guidelines, procedures, and work instructions which are related to the performance of the delegated functions.

3. In carrying out the delegated functions and services outlined in paragraph III.A.1, the ABS will also:

(i) ensure that its employees engaged in the performance of functions delegated under this MOU are familiar with and require compliance with applicable laws and regulations and Coast Guard policies, interpretations, and instructions, provided to the ABS by the Coast Guard, interpreting and applying those applicable laws and regulations including (1) the International Convention for the Safety of Life at Sea (SOLAS), and, where authorized, other applicable international conventions to which the United States is a party; (2) United States statutes; (3) federal regulations; (4) the ABS Rules; and (5) the U.S. Supplement to the ABS Rules;

(ii) promptly notify the Coast Guard at any time the ABS cannot fulfill its responsibilities under this MOU for any reason;

(iii) Unless otherwise specifically agreed in writing, conduct delegated inspections, examinations and plan review using only exclusive employees of the ABS;

(iv) ensure that, when an employee of the ABS is performing a function delegated under this MOU on board a vessel of the United States, the employee will promptly notify the cognizant Officer in Charge, Marine Inspection of any condition of the vessel or its equipment that does not correspond substantially with the particulars of the certificate of inspection or is such that the vessel is not fit to proceed to sea without danger to the vessel or persons on board to allow the Coast Guard the opportunity to conduct a timely investigation or examination as appropriate;

(v) ensure that, when an employee of the ABS attends a vessel to carry out delegated functions and finds that vessel is not in compliance with applicable requirements, the ABS employee will promptly notify the responsible vessel representative of the findings and that corrective action to rectify the deficiency must be taken. If the responsible vessel representative refuses to accept the findings and to undertake corrective action, the ABS employee is to advise the vessel representative of the appeals procedure and is to promptly notify the cognizant Officer in Charge, Marine Inspection, of the situation;

(vi) accept all requests to perform delegated services, on vessels classed by the ABS, without regard to the vessel's location, unless prohibited to do so under the laws of the United States or under the laws of the jurisdiction in which the vessel is located; and

(vii) provide the Coast Guard with current schedules of inspection¹ examination, survey and plan review fees and related charges and provide copies of changes when they occur.

4. In carrying out the delegated functions and services outlined in paragraph III.A.2., the ABS will also:

(i) ensure that its employees engaged in the performance of functions delegated under this MOU are familiar with and require compliance with applicable laws and regulations and Coast Guard policies, interpretations, and instructions, provided to the ABS by the Coast Guard, interpreting and applying those applicable laws and regulations pertaining to the vessel measurement function, including the International Convention on Tonnage Measurements of Ships, 196g, and all tonnage measurement interpretations and policies of the Coast Guard within the scope of the authority delegated that would normally be applied to U.S. flag vessels;

(ii) conduct tonnage measurement on behalf of the Coast Guard using exclusive employees of the ABS or part time employees or independent contractors specifically designated by the ABS to provide measurement services under the Convention, Standard, or Dual Measurement Systems;

(iii) not use an employee or contractor to measure and certify the tonnage of a vessel if that employee or contractor is acting or has acted as a tonnage consultant for the same vessel;

(iv) physically conduct a compliance inspection before issuing each tonnage certificate;

(v) accept all requests to perform delegated services without regard to the vessel's location, unless prohibited to do so under the laws of the United States or under the laws of the jurisdiction in which the vessel is located;

(vi) notify the Coast Guard of scheduled meetings that may take place between the ABS and other vessel tonnage measurement organizations pertaining to tonnage measurement of U.S. vessels or to the systems under which U.S. vessels are measured; and

(vii) provide the Coast Guard with current schedules of measurement fees and related charges.

5. In carrying out this agreement, the Coast Guard will:

(i) provide the ABS with policies, interpretations, and instructions necessary to perform the delegated functions;

(ii) review and comment on proposed changes to the ABS Rules and the associated ABS quality system procedures and process instructions related to functions delegated under this MOU to determine that these documents, read together with the U.S. Supplement to the ABS Rules, are consistent with U.S. law, regulation, and policy. Where the Coast Guard determines that an ABS Rule

is not consistent with Coast Guard regulations and policy, the Coast Guard will define, together with the ABS, corrective provisions to be made in the U.S. Supplement to the ABS Rules;

(iii) approve proposed changes to the U.S. Supplement to the ABS Rules.

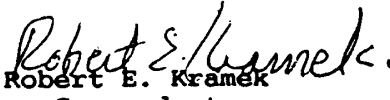
(iv) designate appropriate persons to serve as points of contact for periodic review, clarification, and reinforcement of the working relationship between the Coast Guard and the ABS; and

(v) process appeals resulting from the actions of the ABS in accordance with pertinent Coast Guard procedures.

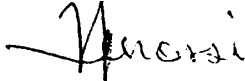
IV. Non-exclusivity. Nothing in this MOU shall be construed to limit the delegation of any function to a classification society other than the ABS to the extent allowed by law.

V. Effective Date. This memorandum shall become effective upon authorized signature of both the Coast Guard and the ABS.

VI. Termination. As of the effective date of this MOU, the previous MOU between the Coast Guard and the ABS concerning plan review and inspection of vessels under construction certificated by the Coast Guard and the tonnage measurement of vessels is superseded and canceled. This MOU may be terminated by one party upon written notice to the other party. Termination will occur sixty days after written notice is given from one party to the other party. This MOU should be reviewed annually by both parties.


Robert E. Kramek
Commandant
United States Coast Guard

Date: JAN 12 1995


Frank J. Iarossi
Chairman and
Chief Executive Officer
American Bureau of Shipping
Date:

JAN 12 1995